



Congress of the United States
House of Representatives
Washington, DC 20515

March 24, 2009

Dear Republican Colleague on the Judiciary Committee:

On Wednesday, March 25, the Judiciary Committee will mark-up the **Free Flow of Information Act (H.R. 985)**, which protects the public's right to know by protecting the identities of reporters' confidential sources. This bill is identical to the one that passed the House in the 110th Congress by an overwhelmingly bipartisan vote of 398 to 21. **We urge you to vote YES on the bill during the Judiciary Committee mark-up.**

If potential sources, including government and corporate whistleblowers, fear that reporters will be forced to reveal their identities, these sources will not come forward, and the public will lose the ability to hold the government and corporations accountable for wrongdoing. Be it the mistreatment of soldiers at Walter Reed Medical Center, safety problems at nuclear power plants or the massive fraud at Enron, groundbreaking stories would have remained unknown both to the public and to Congress without information from confidential sources.

This legislation responds to a very real problem. Since 2001, five journalists have been sentenced or jailed for refusing to reveal their confidential sources in federal court. Two reporters were sentenced to 18 months in prison and one reporter faced up to \$5,000 a day in fines. A 2006 study estimated that in that year alone, 67 federal subpoenas sought confidential material from reporters, with 41 of those subpoenas seeking the name of a confidential source.

Such actions inevitably have a chilling effect on the willingness of reporters to rely on confidential sources and on the willingness of sources to speak to reporters. As a consequence, the flow of vital information to the public and the ability of policy makers to take corrective action are hindered. The Free Flow of Information Act will ensure that confidential sources remain willing to share information vital to the public interest.

This is a bipartisan bill. Both Republicans and Democrats can agree that an informed citizenry supported by a free and independent press is vital to our democracy. Imprisoning or bankrupting journalists who protect the identities of their sources is not the American way.

The Free Flow of Information Act does not give a free pass to the press or their sources. Rather, the bill establishes reasonable and well-balanced ground rules for when a reporter can be compelled to testify about confidential sources. Reporters would not receive protection if information is needed to prevent an act of terrorism or other significant harm to national security, to furnish eyewitness observations of a crime, and to prevent death or substantial bodily harm.

The bill includes language passed as part of the Republican Motion to Recommit in the 110th Congress that requires harm to national security to be considered. Taken together, these standards carefully balance the public's interest in the free flow of information and the fair administration of justice.

State and federal law enforcement officials have expressed support for the legislation. In June 2008, the Attorneys General from 42 states urged the Senate to pass the Free Flow of Information Act, noting that "an informed citizenry and the preservation of news information sources are vitally important to a free society," and warning that the lack of federal standards is "producing inconsistency and uncertainty" for reporters and confidential sources and undermining state shield laws. Former Solicitor General Theodore Olson wrote in October 2007 that the "legislation is well balanced and long overdue, and it should be enacted."

Once again, we urge you to vote YES on the Free Flow of Information Act (H.R. 985) during the Judiciary Committee mark-up on Wednesday, March 25.

Sincerely,



Mike Pence
Member of Congress



Bob Goodlatte
Member of Congress



Roy Blunt
Member of Congress



Howard Coble
Member of Congress